



**Minutes of the Board of Agriculture
August 23, 2022**

CALL TO ORDER – The meeting of the Board of Agriculture was called to order on August 23, 2022 at 9:16 a.m. by Board of Agriculture Chairperson, Phyllis Shimabukuro-Geiser. The meeting was conducted virtually via Zoom. An in-person location was available at the Hale Waiolama Board Room located at 1428 S. King St.

Members Virtually Present: Roll call/alone

Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture
Suzanne Case, Chairperson, Board of Land and Natural Resources, Ex Officio Member
Dr. Ania Wieczorek, Interim Dean CTAHR, Ex Officio Member
Mary Alice Evans, Ex-Officio Member
Diane Ley, Hawaii Member
Vincent Mina, Maui Member
Fred Cowell, Kauai Member (*Board Member Cowell was intermittently cut off due to power outages on Kauai*)
Randy Cabral, Member-at-Large
En Young, Member-at-Large
James Gomes, *Member-at-Large (Participated by phone. He was unable to join virtually. Maui was experiencing an island-wide power outage which also affected his internet provider)*

Deputy Attorney General Virtually Present:

DAG Jodi Yee (for part of the meeting)
DAG Bryan Yee

Others Virtually Present:¹

Adam Wong
Alison Kato, DAG
Andy Cullison
Becky Azama, HDOA/PI
Brandi Ah Yo
Brian Kau, HDOA/ARMD
Cassie Ordonio
Cathy Goeggel
Chris Kishimoto, HDOA/PI/PQB
Darcy Oishi, HDOA/PI
Helmuth Rogg, HDOA/PI
Jodi Yi, DAG
Jonathan Ho, HDOA/PI/PQB
KITV4 News

¹ The identification of the public members is based on their sign-in name, but are not verified.

1 Kori Koike
2 Linda Murai, HDOA/ARMD
3 Marcel Honore
4 Morris Atta, HDOA/Ag Loan
5 Noni Putnam, HDOA/PI/PQB
6 Povi Carisa-Abney
7 Public Testimony
8 Robert Hauff, DLNR
9 Roy Hasegawa, HDOA/ARMD
10 Tracy Johnson

11
12 Others Physically Present
13 None
14

15
16 II. APPROVAL OF MINUTES FROM 6/28/2022 MEETING
17

18 Motion to Approve: Evans/Cowell
19

20 Discussion:

21 Board Members Gomes and Wieczorek abstained. Both were not in attendance at the June 28th
22 meeting.
23

24 Vote: Approved-8; Abstained-2 (Gomes, Wieczorek)
25
26

27 III. INTRODUCTIONS
28

29 New Members Ania Wieczorek and James Gomes introduced themselves.
30

31 Dr. Ania Wieczorek has been in Hawai'i for 20 years as a member of CTAHR Ohana. She has
32 been appointed as the Interim Dean for CTAHR.
33

34 Mr. James (Jimmy) Gomes, retired from Ulupalakua Ranch and was rehired as a consultant. He
35 was on the BLNR for eight years. Served on the Agribusiness Development Corp.'s Board for
36 one year. When Joe Tanaka's term expired, he was appointed to the BOA. He is the current
37 president of the Hawai'i Cattlemen's Council and Director of Hawai'i Cattle Producers Coop and
38 is also involved in various small boards pertaining to the agricultural industry.
39

40 Chair announced that Board Member Gomes would be joining by phone. His internet connection
41 was unavailable due to a massive power outage on Maui.
42
43
44

1 IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

2
3 *Due to connection difficulties, items were heard in the following order:*

- 4 1) *Item B-1 (DAG Bryan Yee joined late at 9:36 am)*
5 2) *Item A-1 (After voting on item A-1, Board Member Evans left the meeting from 10:01*
6 *am-10:23 am)*
7 3) *Item B-*

8
9 *For clarity, the minutes will be reported in the same order as the agenda.*

10
11 A. AGRICULTURAL LOAN DIVISION

- 12
13 1. Request for Approval to Activate and Set Parameters for DOA's Emergency Loan
14 Program to Provide Relief Due to Overpopulation of the Axis Deer in the County
15 of Maui.

16
17 Morris Atta, Acting Agricultural Loan Administrator, presented the request as submitted.

18
19 Motion to Approve: Wieczorek/Ley

20
21 Discussion:

22 Maui Board Member Gomes reported that there was no vegetation on the Makai pastures. He
23 said that an entity called Maui Nui is actively harvesting the deer for dogfood, human
24 consumption, and by-products and that there is a possible economic advantage to the situation.
25 He added that the Proclamation would not help the big landowners and gave the example of the
26 high cost of fencing large acreage. He also pointed out that laws may be needed to protect the
27 private landowner from liability should the deer run through their property and cause an accident
28 on state or county roads.

29
30 Board Member Ley asked how much was available in the emergency fund. Mr. Atta answered
31 that there was \$1 million inserted into current funding which could be activated and used upon
32 issuance of an emergency proclamation. Chair clarified that the \$1 million supplemental funding
33 is only good until the end of the fiscal year. She added that the Ag Loan portfolio runs \$4 -\$5
34 million per year. She said that it was still only have one pot of money, but they are trying to take
35 advantage of the supplemental \$1 million dollars.

36
37 Board Member Young asked the rationale for waiving residency. Mr. Atta explained that many
38 immigrant farmers may be disqualified from the Ag Loan lending standpoint, and they wanted to
39 be as flexible as possible to assist the industry.

40
41 Board Member Young asked if the repayment terms were flexible. Mr. Atta said that they were
42 still bound by lending requirements under the Ag Loan statutes. Mr. Atta further clarified that
43 one of the conditions was that if the borrower receives any other aid, the funds must be used to
44 repay loans. The emergency loans are intended to be an interim measure to prevent farms and
45 ranches from going under with hope that if other aid comes in, loan funds will be replenished.
46 Chair added that they are assisting with recovery and not to build a new farm and the

1 information and documentation that the applicants provide are subject to review by the loan
2 officer and the administrator.

3
4 Vote: Approved; 10-0

5
6 Board Member Evans left at 10:01 am. The next agenda item to be heard was B-2.
7

8
9 B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

- 10
11 1. Request for Approval to Award Leases to Various Awardees and Backup Bidder
12 Positions; TMK Nos. (2) 2-2-004:001, 002, 029, 031, and 066, and (2) 2-2-
13 005:047 and 053, Keokea, Kula, Makawao, Island of Maui, Hawaii
14

15 Linda Murai, HDOA/ARMD, presented testimony as submitted.

16
17 Motion to approve: Cabral/Gomes

18
19 Discussion:

20 Board Member Evans asked if there were existing tenants when the lots were transferred from
21 DLNR. Ms. Murai answered that the lots were vacant. Board Member Mina asked if water was
22 available. Ms. Murai said that the lots have existing meters, but she was not sure how many
23 were active and working and it would be up to the lessee to do their due diligence before signing
24 the lease. She added that the Department of Water Supply and DLNR have indicated that some
25 of the lots have water meters. She also confirmed for Board Member Mina that the cost was an
26 annual rate for the lot.
27

28 Vote: Approved; 10-0
29

30 Board Member Gomes commented that some of the lots in Keokea are covered with black
31 wattle, and it would be a lot of work before it could be a grazable area.
32

33 Chair added that the department issues a right-of-entry for up to six months. During that time,
34 the awardee can do their due diligence and decide whether to proceed with the long-term lease.
35 Ms. Murai added that there will be no penalty if the awardee decided to cancel.
36
37

- 38 2. Request for Acceptance for Annual Renewal of Revocable Permits for TMK Nos.:
39 (1) 9-4-002:080; (1) 4-1-008:071 & 072; (2) 1-1-003:028; (3) 3-1-004:001; (3) 4-6-
40 002:001; (3) 4-7-004:009; (3) 4-9-011:002; (3) 5-5-007:011; (4) 1-9-002:019; (4) 1-9-
41 003:006; (4) 1-9-003:010; (4) 1-9-012:011; (4) 4-1-001:007; (4) 4-1-001:012; and (4)
42 4-1-009:005 & 006, Statewide and (2) Reservation and Delegation to the
43 Chairperson the Right and Authority at Any Time to Review and Adjust the Rental
44 Charges for Any of the Revocable Permits
45

46 Linda Murai, HDOA/ARMD, presented testimony as submitted.
47

1 Motion to approve: Ley/Cabral

2

3 Discussion:

4 Board Member Case asked if the Board needed to know the names of the people to whom the
5 permits would be issued for land disposition purposes. Chair answered although the Deputy AG
6 advised her that it was not required, she said that the list could be provided, but because of the
7 timing of the request, she was not comfortable that the list could have been provided to all the
8 members in time for the meeting. Ms. Murai verbally identified the names of the permittees.

9 Board Member Case thanked her and said that it helps for public transparency, and they have
10 an actual disposition to someone.

11

12 Board Member Cabral asked Ms. Murai why they are Revocable Permits (RP) instead of long-
13 term leases. She answered that most of the RPs were Act 90 transfers from DLNR and that
14 ARMD has been focusing on leasing the vacant land because they pose more issues to the
15 public. The RPs generally have farmers on the land and caring for the land. The RPs have been
16 placed in second position and will be eventually converted to long-term leases.

17

18 Chair added that RP-26, 150-acres to Waikele Farms is the location of the proposed Royal
19 Kunia Ag Park. One of the reasons that the RP has not been converted into a long-term lease is
20 that the department wants to subdivide the parcel into lots for new farmers but has not been
21 able to obtain legislative approval for CIP funds.

22

23 Board Member Mina asked about RP-5932 to Isaac Kanoa. Ms. Murai answered that his RP
24 was an Act 90 transfer and she confirmed that they were on the lease since 1982. Board
25 Member Mina said that they were wetland taro farmers and supplied pahole. He wanted to
26 assure that they have stable use of the land.

27

28 Board Member Gomes asked about the timeframe to convert RPs into long-term leases. Ms.
29 Murai answered that it would depend on the number of vacant lots that needed to be leased.
30 Priority would be to get farmers to care for the vacant land. Chair explained that part of the
31 problem is the inability to attract and recruit qualified property managers. More staff is needed to
32 manage more of the work.

33

34 Board Member Case asked about the delegation because it looks like there would be no Board
35 oversight of the rents that are charged, which would seem to be a basic function of the Board.
36 Chair explained that it was placed on the agenda for transparency purposes and the Board
37 could decide not to delegate. The motion could be amended to separate the two sections and
38 voted on separately. Ms. Murai commented that at a prior meeting, Chair was delegated the
39 authority to approve certain things, but rents were not included. Currently, an independent
40 appraiser is used to determine RP rents. She said that appraisals are costly, and the term of the
41 RP is short; Chair felt that the delegation could expedite the renewal process. Board Member
42 Case voiced concern about the lack of Board oversight and said the Board has flexibility on RP
43 rents and that she believes that standards other than appraisals are possible.

44

45 Board Member Evans rejoined at 10:23 am

46

47 Board Member Young said his preference was to split the motion.

1 Board Members Ley and Cabral amended their motion accordingly.

2

3 Roll-call vote was taken to amend the motion:

4 Approved: 8 (Ley, Cabral, Cowell, Young, Gomes, Mina, Wieczorek, Case); Approve With
5 Reservations: 1 (Chair); Abstain: 1 (Evans)

6

7 Vote for Part (1) to accept the annual renewal of revocable permits: Approved: 10-0

8

9 Roll-call vote for Part (2) Reservation and Delegation to the Chairperson the Right and Authority
10 at Any Time to Review and Adjust the Rental Charges for Any of the Revocable Permits:

11 Approved: 5 (Cabral, Cowell, Gomes, Mina, Chair); Approve with Reservations: 1 (Wieczorek);
12 Disapprove: 3 (Ley, Young, Case); Abstain: 1 (Evans)

13

14 Board Member Case asked if staff could report back to the board if the rent is set other than
15 appraisals. Chair acknowledged.

16

17

18 3. Request for Approval for Farm Dwelling; General Lease No. S-6020; Fong
19 Sourivong, lessee; TMK: (1) 5-6-006:048; Kahuku Agricultural Park, Lot 20,
20 Koolauloa, Kahuku, Island of Oahu, Hawai'i

21

22 Roy Hasegawa, HDOA/ARMD, presented testimony as submitted.

23

24 Motion to approve: Evans/Wieczorek

25

26 Discussion:

27 Board Member Cabral questioned why staff was not aware of the building being built in 2007.

28 Ms. Murai answered that the Board minutes dated February 9, 1989, documented that the Chair
29 could approve employee dwellings but not personal dwellings. She said that staff was confused
30 and did not obtain board approval for personal dwellings because they thought that the authority
31 was delegated to the Chair. She said that the division is currently doing housekeeping for after-
32 the-fact board approvals for the dwellings.

33

34 Board Member Cabral asked how often the land managers inspect the leases. Ms. Murai said
35 that inspections were typically once a year, but they are being increased to twice a year.

36

37 Board Member Gomes asked about the square footage of the dwelling, whether it had been
38 remodeled and if it was built to code. Ms. Murai answered that the dwelling is 1,350 sq. ft. with 2
39 bedrooms and 2 baths, has not been renovated, and permitted and approved by DPP. Board
40 Member Gomes asked when the building was last inspected and the condition of the building.

41 Ms. Murai said that property managers look at the improvements and if the structure is in
42 disrepair, they note it in the files and notify the lessee. According to the lease, they are required
43 to maintain the premises.

44

45 Board Member Gomes asked Ms. Murai if they could see colored pictures of the buildings.

46

1 Board Member Mina asked about the security measures in the ag park and how many acres
2 were in actual production. Mr. Hasegawa answered 40-50% and the crop varies between
3 eggplant and bittermelon. He said that there was a security gate at the front entrance and the
4 farmers are responsible to make sure the gate is closed. 100% of the farmers have experienced
5 theft and burglary of tools, equipment, ATV, and crops. Board Member Mina said that every
6 farmer should be able to secure their land.

7
8 Board Member Evans asked if Kahuku Ag Park was the only Ag Park that allowed
9 employee/farm dwellings. Ms. Murai said that some of the older leases do allow, and the Board
10 must approve all farm dwellings.

11
12 Board Member Evans asked about the origin of the term personal residence. She said in
13 Chapter 205, HRS, there is no definition of personal residence in the ag district. Chair
14 answered that staff searched their records and found that in 1989, the language was used in the
15 motion on the agenda. The Board did not define personal dwellings but on the agenda, used the
16 language personal dwellings and employee dwellings. Board Member Evans asked if the
17 department still makes a distinction between farm and personal dwelling. Ms. Murai answered
18 that presently, they interpret farm dwelling where the lessee and their family reside, and
19 employee dwelling is where the employees reside. Board Member Evans noted that the issue
20 was broader than just the department's ag parks.

21
22 Vote: Approved; 10-0

- 23
24
25 4. Request for Approval for Farm Dwelling; General Lease No. S-6021; HI Koko
26 Farms LLC, lessee; TMK: (1) 5-6-006:049; Kahuku Agricultural Park, Lot 21,
27 Koolauloa, Kahuku, Island of Oahu, Hawaii

28
29 Roy Hasegawa, HDOA/ARMD, presented testimony as submitted.

30
31 Motion to approve: Evans/Gomes

32
33 Discussion:

34 Mr. Hasegawa described the dwelling as 1,350 sq. ft; 2 bedrooms/2 baths and well maintained.

35
36 Vote: Approved; 10-0

- 37
38
39 5. Request for Approval for Farm Dwelling; General Lease No. S-6024; Khamphou
40 Khouthong, lessee; TMK: (1) 5-6-006:052; Kahuku Agricultural Park, Lot 24,
41 Koolauloa, Kahuku, Island of Oahu, Hawai'i

42
43 Roy Hasegawa presented testimony as submitted.

44
45 Motion to approve: Evans/Gomes

46
47 Discussion:

1 Board Member Cabral asked if the lease required that the lessee maintain the structure for the
2 life of the lease. Ms. Murai answered that it did.

3
4 Board Member Mina questioned if improvements had to be approved by the City. Ms. Murai
5 answered that the Board's approval would be required first.

6
7 Board Member Cowell commented that the three lots were located on the same street and
8 asked how they came up at the same time. Ms. Murai said that staff was checking and found
9 that the three houses were not approved and are being presented to the Board pursuant to the
10 1989 board submittal.

11
12 The dwelling is 1,104 square feet, 3 bedrooms/2 baths, and well maintained.

13
14 Vote: Approved; 10-0

- 15
16
17 6. Request for Approval to Sublease Between the Hamakua Agricultural
18 Cooperative, Lessee/Sublessor, and Hamakua Landscaping, LLC, Sublessee;
19 General Lease No S-5551, TMK: (3) 4-6-003:001, 002 and 020 (por), Lot 17,
20 Honokaia, Hamakua, Island of Hawaii, Hawai'i

21
22 Brandi Ah Yo, HDOA/ARMD presented testimony as submitted.

23
24 Motion to approve: Ley/Cowell

25
26 Discussion:

27 Board Member Evans asked if the master lease between DOA and the Hamakua Cooperative
28 allowed for farm dwellings. Ms. Ah Yo answered that it did not. Discussion on ag theft and
29 damages experiences followed. Board Member Evans asked if the master lease could be
30 revised to allow farm dwellings. Ms. Ah Yo said she thought rules needed to be amended.

31
32 Chair said that the Hamakua Ag Park was created for displaced sugar workers. Mr. Brian Kau
33 further explained that the Hamakua Ag Park is unique and the only ag park that they serve as
34 the master over. The reason is the parcels were subdivided and due to zoning, allows only one
35 house per TMK. They have considered an exemption to subdivide but it will not necessarily
36 address the A40 zoning issue.

37
38 Vote: Approved; 10-0

39
40 Chair called for a 10-minute recess at 11:08 am.

41 The meeting was called back to order at 11:18 am.

- 42
43
44 7. Status update, discussion, and decision-making on delegation of authority to the
45 Chairperson to assert rights and enforce claims arising out of or related to
46 General Lease No. S-6010 between the State of Hawaii by its Board of

1 Agriculture and Alii Kawa LLC covering Lot No. 10 of the Kahuku Agricultural
2 Park (TMK No. (1) 5-6-06: 038).

3
4 Chair asked for a motion to enter Executive Session to meet with attorneys: Cowell/Wieczorek
5 Members exited the public meeting and entered the Executive Session.

6
7 The meeting resumed at 11:52 am.

8
9 Discussion

10 The motion was made to approve the delegation of authority to the Chairperson of the BOA to
11 assert rights and enforce claims arising out of or related to General Lease no. S-6010 between
12 the State of Hawai'i by its board of Agriculture and Alii Kawa LLC covering Lot No. 10 of the
13 Kahuku Agricultura Park (TMK No. (1) 5-6-06: 038 por.): Evans/Case

14
15 Board Member Gomes recused himself. Due to technical difficulties, he was unable to join the
16 Executive Session.

17
18 Vote: Approved: 9-0; Abstain: 1 (Gomes)

19
20
21 C. PLANT INDUSTRY DIVISION

22
23 Entomology

24
25 1. Request to: (1) Preliminarily Review the Currently Unlisted Beetle, *Syphraea*
26 *uberabensis* (Coleoptera: Chrysomelidae) for Future Placement on the List of
27 Restricted Animals (Part A) As a Biocontrol Agent of *Tibouchina herbacea* and
28 Other Related Species in the Family Melastomataceae, by the United States
29 Department of Agriculture Forest Service (USDA FS);

30
31 (2) Determine If the Release of the Beetle *Syphraea uberabensis* as a
32 Biocontrol Agent of *Tibouchina herbacea* and Other Related Species in the
33 Family Melastomataceae, by the USDA FS Poses No Significant Impact on the
34 Environment;

35
36 (3) Provided the Beetle *Syphraea uberabensis* is Placed on the List of
37 Restricted Animals (Part A), Allow the Release from Laboratory Quarantine of
38 the beetle *Syphraea uberabensis*, by Permit, For Biocontrol of *Tibouchina*
39 *herbacea* and Other Related Species in the Family Melastomataceae by USDA
40 FS;

41
42 (4) Provided the Beetle *Syphraea uberabensis* is Placed on the List of
43 Restricted Animals (Part A), Allow the Importation and Release of the Beetle
44 *Syphraea uberabensis*, by Permit, For Biocontrol of *Tibouchina herbacea* and
45 Other Related Species in the Family Melastomataceae, by the USDA FS;

46

1 (5) Provided the Beetle *Syphraea uberabensis* is Placed on the List of
2 Restricted Animals (Part A), Establish Permit Conditions For the Importation
3 and Release of the Beetle *Syphraea uberabensis* As a Biocontrol Agent of
4 *Tibouchina herbacea* and Other Related Species in the Family
5 Melastomataceae, by the USDA FS; and
6

7 (6) Provided the Beetle *Syphraea uberabensis* is Placed on the List of
8 Restricted Animals (Part A), Authorize the Chairperson to Schedule a Public
9 Hearing and Appoint a Hearing Officer in Connection with the Proposed
10 Amendments to Chapter 4-71, HAR.
11

12 Chris Kishimoto, HDOA/PI/PQB presented testimony as submitted.
13

14 Board Member Evans made a disclosed that she is the Director of the Office of Planning and
15 Sustainable Development but that the acceptance of an Environmental Assessment for
16 publication is a ministerial action not a discretionary action and therefore, she can participate
17 and vote without a conflict of interest.
18

19 Motion to approve: Gomes/Wieczorek
20

21 Discussion:

22 Board Member Gomes asked about advisory review and if there was a reason why Dr. Francis
23 Howarth did not respond. Mr. Kishimoto answered that he did not respond when they sent him
24 the submittal for review, and they did not follow-up because it is difficult to get him to respond.
25 Mr. Kishimoto added that he is a respected entomologist, and his responses, opinions and
26 recommendations hold a lot of weight, however, if he wishes to retire, he could let them know.
27

28 Board Member Gomes also asked about the Miconia and related weeds. He wanted to know
29 what the related weeds were. Mr. Kishimoto said they were four other species, and all are
30 considered bad weeds in Hawai'i.
31

32 Board Member Mina asked if there was anything that surfaced in Brazil that would be
33 considered a predator if the beetles become out of control. Mr. Kishimoto said that the beetle
34 would be observed in quarantine to make sure that there are no parasites. Mr. Kishimoto said
35 they are very specific to weeds that were mentioned, and he did not think there had many
36 predators; but he indicated that they would like to increase the population to attack more of the
37 weeds.
38

39 Dr. Tracy Johnson, Research Entomologist, USDA Forestry Service on Big Island said that the
40 life cycle of the beetles run about 6-8 weeks and the adults may live up to 3 months. He
41 explained that it would take multiple generations of beetles to have a strong impact on plants.
42 He said the beetles also must move to find the plants. Board Member Mina was concerned that
43 crops would be affected and asked if there were any other avenues being explored. Dr. Johnson
44 said they have explored natural enemies and they chose beetles because it has a potentially
45 large impact on eating the leaves and fewer other issues than with potential natural enemies.
46

1 Board Member Young noted that Darcy had issues with the wording in some of the permits. Mr.
2 Kishimoto answered that it was addressed in the submittal. He also asked about the Findings of
3 No Significant Impact (FONSI) and asked if it was forthcoming. Mr. Kishimoto said that they
4 have not issued anything, and the comment period lapsed with no issues. Board Member Young
5 asked if it was premature to vote without the FONSI. Mr. Kishimoto answered that there should
6 be no issues with items 1-6 and it would be nice to have the FONSI, but it could be issued prior
7 to Dr. Johnson getting his permit.

8
9 Board Member Young questioned if the FONSI was a legal prerequisite to approving any of the
10 issues in the submittal. Mr. Kishimoto answered that it was, but he did not think it would be a
11 problem to get the FONSI and if the FONSI was not received, the permit would not be issued.
12 Mr. Kishimoto said that permit conditions require that the applicant is compliant with federal,
13 state and county requirements. Board Member Young wanted to know if the Board could vote
14 on the issue without the FONSI.

15
16 Board Member Case wanted to confirm with the Deputy AG that FONSI is not required to make
17 the decision. DAG Yee stated his concern. He said that if a FONSI was submitted in the
18 beginning and the comment period had lapsed, that was fine. He asked why they were not
19 waiting for the final Environmental Assessment (EA) to be completed. DAG Yee asked if anyone
20 was available from the Forest Service.

21
22 Dr. Johnson said that the Forest Service is not the accepting authority. He said it was between
23 DLNR and DOA. He said he thought they had submitted a draft EA, got comments but had not
24 submitted final EA.

25
26 Mr. Rob Hauff said that DLNR submitted the draft EA to HDOA who was going to issue the
27 FONSI. PQB was going to be the issuing agency, but PQB wanted to wait until it went to the
28 subcommittee on entomology before a determination was made. They are still waiting for the
29 determination.

30
31 DAG Yee clarified that DLNR believed that DOA was the accepting authority. Mr. Hauff agreed
32 and said that they met with the Office of Environmental Quality Control (OEQC) to go over who
33 would be the best for submitting agency and determining agency and they were fine. HDOA was
34 fine with the determination.

35
36 DAG Yee said that the EA must be accepted as final before the Board can act. He said he did
37 not realize that DOA was the accepting authority and they had not acted on this.

38
39 Board Member Ley asked about a similar action with respect to the mosquitos. DAG Yee
40 explained that DOA was not the accepting authority. Another state agency was the actor. DOA
41 deferred to the state agency that they had complied with the necessary requirements of Chapter
42 343, HRS when they came to the Board. In this case, this is not a state action, but a state
43 acceptance and as the accepting authority, DOA must accept the final EA before acting.

44
45 Board Member Case questioned if issuance of the FONSI was delegated to staff or if it had to
46 come back to the Board. She asked if it was delegated then staff could finish the process; or if
47 the board had not delegated, the recommendation would be included in the next submittal and

1 the recommended action would be that the board accept and issue a FONSI and then approve
2 the action. DAG Yee answered that because it was not on the agenda, the EA or the delegation
3 could not be acted on. He said that the authority was not delegated to the Chair and would need
4 to come back to the Board.

5
6 Board Member Evans noted that actions 3, 4, 5, and 6 were provisional and only made
7 actionable if item #2 was completed and asked the DAG if they could still act on #1-6. DAG Yee
8 answered that since the draft EA is the informational document which the Board relies on, it
9 must be completed before a decision is made.

10
11 Board Member Evans asked if the department director could serve as the accepting agency.
12 DAG Yee said he would check but it would have to be done first or simultaneously at the next
13 board meeting. The delegation could not be made at the meeting because it was not on the
14 agenda.

15
16 Chair asked if the Board could act on item #1. DAG Yee answered that it was possible but
17 would not save time.

18
19 Chair deferred action to be taken up at next meeting.
20

21 Land Vertebrate:

- 22
23
24 2. Request to: (1) Allow the Importation of Four (4) African Black-Footed
25 Penguins, *Spheniscus demersus*, an Animal on the List of Restricted Animals
26 (Part B), by Permit, for Exhibition, by Hyatt Regency Maui Resort and Spa; and
27 (2) Update Permit Conditions for the Importation of Four (4) African Black-
28 Footed Penguins, *Spheniscus demersus*, an Animal on the List of Restricted
29 Animals (Part B), for Exhibition, by Hyatt Regency Maui Resort and Spa.
30

31 Noni Putnam, HDOA/PI/PQB presented testimony as submitted.
32

33 Motion to approve: Evans/Cowell
34

35 Discussion:

36 Cathy Goeggel, President of Animal Rights Hawai'i, testified that they are opposed to the hotel
37 bringing in the penguins that are native to South Africa. She said they don't belong in Hawai'i
38 and don't represent Hawai'i. She said animals are not ornaments and it is improper for this to
39 continue. She asked the Board to think of the image that is presented to tourists.
40

41 Board Member Gomes agreed with Ms. Goeggel, and said that locally, there should be
42 something more native where you can walk away and learn something about Hawai'i. He was
43 against the overall concept and said that he would oppose.
44

45 Povi Carisa-Abney, Wildlife Supervisor at the Hyatt said that they tie native animals into their
46 wildlife tours. They see it is an opportunity to share an appreciation of animals around the world
47 and show how animals in South Africa impact animals all around the world. They are making

1 moves to appreciate more native animals. African penguins are part of their image/family, and it
2 is something they hope generations can view and appreciate and see how they tie into
3 Hawaiian culture.

4
5 Board Member Ley believes that the process was complete and shared her strong reservations
6 about bringing in exotic animals for commercial use and entertainment.

7
8 Board Member Wieczorek agreed with Board Member Ley and stated that Hawai'i should
9 support the promotion of native Hawaiian plants and native Hawaiian life. She also agreed that
10 the process was complete, but UH/CTAHR believes that they are a native Hawaiian place of
11 learning, and the request was for entertainment and not education.

12
13 Board Member Case also shared the same concerns as Board Members Ley and Wieczorek.

14
15 Chair asked if there was a zoo on Maui. The answer was no.

16
17 Board Member Cabral pointed out that they approved swans for another hotel and questioned
18 the difference between approving a swan and a penguin.

19
20 Dr. Wieczorek said that she is new to the board and will abstain because she did not receive
21 any supporting documents.

22
23 Vote: Approve: 3 (Cabral, Cowell, Evans); Approve with Reservations: 2 (Ley, Chair);
24 Disapprove: 4 (Young, Gomes, Mina, Case); Abstain: 1 (Wieczorek)

25
26 Board Member Wieczorek asked if the board could postpone the vote until she reviewed the
27 documents.

28
29 Chair consulted DAG Yee who confirmed that the vote did not pass; it was not denied but it was
30 not granted. He explained that the matter was tabled with no resolution, and the requestor could
31 come back at a future meeting.

32
33
34 V. OLD BUSINESS

35 None.

36
37 VI. NEW BUSINESS

38 None.

39

1
2 ADJOURNMENT OF MEETING: (Wieczorek/Gomes)

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4 The meeting was adjourned at 1:04 pm.

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6
7 Respectfully submitted,

8
9
10 
11 Jan Ferrer
12 Board Secretary